

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Scott A. Holman,

Case No.: 20-CV-00224 (PJS/LIB)

Plaintiff,

v.

Lauri A. Ketola, individually and in her  
official capacity as County Attorney  
for Carlton County; County of  
Carlton, Minnesota, a municipal  
corporation; Kerry E. Kolodge,  
individually and in his official capacity as  
Cloquet City Council Member; and  
City of Cloquet, Minnesota, a  
municipal corporation,

**Stipulation to Amend Pretrial  
Scheduling Order and Strike the  
Settlement Conference**

Defendants.

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Whereas, on December 6, 2021 and multiple other dates, the parties met and conferred to discuss discovery disputes, including subpoenas for depositions served by Plaintiff upon three separate third-parties for depositions which could not be completed by the discovery deadline of November 30, 2021.

Whereas, City Defendants object to the taking of the depositions for multiple reasons, including compliance with the scheduling order and relevancy. In addition, upon information and belief, recipients of the subpoenas have objected in full, or in part, to the subpoenas and demands for depositions.

Whereas, the parties were unable to reach a resolution on the foregoing matters. Plaintiff, thus, desires to bring a separate Motion to Amend the Scheduling Order to allow

for additional fact and expert discovery beyond the previously ordered deadlines. *ECF 37, Pretrial Scheduling Order, pp. 1, 4*. In response, City Defendants' will likely oppose the same, including seeking to quash certain subpoenas that were issued to third-parties who may also enter objections.

Whereas, the content of the discovery dispute and the court's scheduling calendars has impeded City Defendants in scheduling a summary judgment hearing within the current deadlines in the scheduling order despite multiple good faith attempts to schedule a dispositive motion hearing within the current confines.

Whereas, both parties agree that a settlement conference in this matter will not be productive unless and until the parties' respective motions are heard.

Whereas, the parties have at least agreed that Plaintiff should be permitted to pursue his motion and be allowed an amendment to the scheduling order to have such motion heard. Further, that if Plaintiff prevails on his Motion to Amend the Scheduling Order, and against any motions to quash, then Plaintiff will be permitted to take the depositions of Jana Peterson, Jeff Boucher, and Dan Lew within 14 days of such order. No additional or other fact discovery will be permitted. With regard to expert discovery, if Plaintiff does not prevail on his Motion, no additional expert discovery will be permitted. On the other hand, if Plaintiff prevails on his request to reopen expert discovery on matters relating to the Minnesota Government Data Practices Act, then Plaintiff will be required to complete

expert disclosures within 30 days of such order allowing the same and Defendants shall have an additional 30 days thereafter to submit a rebuttal expert report.

Now therefore, the parties agree to the following amendments to the scheduling order, believing that there is good cause to amend the scheduling order as stipulated below because Plaintiff's motion impacts the timing for dispositive motions and because Plaintiff's motion may reopen discovery.

### **Amendment of Scheduling Order**

The parties stipulate and agree to recommend to the Court that it modify certain deadlines in this Court's Pretrial Scheduling Order, dated October 27, 2020 and filed as ECF Doc. No. 37. All dates and other provisions in said Pretrial Scheduling Order shall remain as is, except as follows:

#### **III.**

That all other non-dispositive Motions shall be filed and the Hearing thereon completed prior to ~~December 31, 2021~~ **January 5, 2022**, by calling Jennifer Beck at 218-529-3520, Courtroom Deputy for Magistrate Judge Leo I. Brisbois. All non-dispositive Motions shall be scheduled, filed and served in compliance with Local Rule 7.1(a) and (b) of the Electronic Case Filing Procedures For The District of Minnesota. No discovery Motion shall be heard unless the moving party complies with the requirements of Local Rule 37.1.

#### **IV.**

A Mandatory Settlement Conference pursuant to Local Rule 16.5(b) in the above-entitled matter will be set before Magistrate Judge Leo I. Brisbois, for some time in

~~February 2022~~ **November 2022** at 10:00 a.m. in Courtroom No. 3, Gerald W. Heaney Federal Building and U.S. Courthouse, 515 West First Street, Duluth, Minnesota. A separate Notice of this Settlement Conference shall be issued outlining the parties' obligations for preparation and for appearance of the Conference.

X.

All dispositive motions (notice of motion, motion, memorandum of law, affidavits and proposed order) shall be served, filed and heard on or before ~~January 31, 2022~~ **a date no later than four months after the Magistrate rules on any and all non-dispositive motions.**<sup>1</sup> Counsel for the moving party shall call Caryn Glover, Judge Schiltz's Courtroom Deputy, at 612-664-5483, to schedule the hearing. Parties are reminded that the scheduling of a dispositive motion requires considerable advance notice (typically three to four months). Parties should attempt to schedule all dispositive motions for the same hearing and should strive to avoid duplication in their briefing.

All dispositive motions shall be scheduled, filed and served in compliance with the Electronic Case Filing Procedures for the District of Minnesota and in compliance with Local Rule 7.1. When a motion, response or reply brief is filed on ECF, two (2) paper courtesy copies (three-hole punched and unstapled, and if warranted, exhibits appropriately tabbed) of the pleading and all supporting documents shall be mailed or delivered to Caryn Glover, Courtroom Deputy, at the same time as the documents are posted on ECF.

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<sup>1</sup> The parties should attempt to schedule dispositive motions after all discovery has been completed and to schedule all dispositive motions for the same hearing and should strive to avoid duplication in their briefing. If the parties believe early or piecemeal dispositive motion practice is necessary, they should seek permission of the District Judge.

When scheduling a summary judgment hearing, the parties must notify the Court whether there will be cross-motions for summary judgment so that the Court may enter an appropriate briefing order. The parties should confer about the possibility of cross-motions before contacting chambers to schedule a summary judgment hearing.

XI.

That this case shall be ready for Trial on ~~May 31, 2022~~ **January 23, 2023**<sup>2</sup>, or 30 days after the Court renders its Order on any dispositive motion (whichever is later), at which time the case will be placed on the Court's JURY trial calendar. That the anticipated length of Trial is 5 days.

**Striking the Settlement Conference**

The Settlement Conference Order dated December 6, 2021, will be stricken. *ECF 45, Settlement Conference Order*. In accordance with Local Rule 16.5, this Court will order a replacement Settlement Conference Order pursuant to the scheduling order.

Dated:

Approved by

Email on December 7, 2021

**PADDEN LAW FIRM**

By: /s/ Michael Padden

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<sup>2</sup> **THIS DATE IS NOT A TRIAL SETTING DATE.** The parties will be notified by the Calendar Clerk of the assigned Judge to a case by way of a Notice of Trial as to when this case will be placed on the Trial Calendar. The above date is merely a notice to all parties to consider the case ready for trial as of this date. **DO NOT PREPARE FOR TRIAL UNTIL NOTIFIED.**

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**Attorneys for Plaintiff**

Dated: December 8, 2021

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**Attorneys for Defendants Kerry E.  
Kolodge, City of Cloquet, and Lauri  
Ketola in her capacity as an appointed  
volunteer to the CAB**